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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 United States of America,
10
11 Plaintiff,
12 v.
13 Moises Castaneda-Larios,
14 Defendant.

NO. CR-16-00063-001-PHX-GMS
FINDINGS AND
RECOMMENDATION OF THE
MAGISTRATE JUDGE UPON A
PLEA OF GUILTY AND ORDER

15 **TO THE HONORABLE G. MURRAY SNOW, U.S. DISTRICT JUDGE:**

16 Upon Defendant's request to enter a plea of guilty pursuant to Rule 11 of the
17 Federal Rules of Criminal Procedure, this matter came on for hearing before U.S.
18 Magistrate Judge James F. Metcalf on January 14, 2016, with the written consents of the
19 defendant, counsel for the defendant, and counsel for the United States of America.

20 The Magistrate Judge accepted defendant's waiver of indictment after inquiry was
21 made of the defendant as to his/her understanding of the right to prosecution by
22 indictment. Defendant's written waiver constitutes a part of the plea agreement that has
23 previously been lodged with the Court. Thereafter, the matter came on for a hearing on
24 defendant's plea of guilty in full compliance with Rule 11, Federal Rules of Criminal
25 Procedure, before the Magistrate Judge in open court and on the record.

26 In consideration of that hearing and the statements made by the defendant under
27 oath on the record and in the presence of counsel, and the remarks of the Assistant United
28 States Attorney and of counsel for defendant,

1 I FIND as follows:

2 (1) that defendant understands the nature of the charge against him/her to which
3 the plea is offered and the elements of the offense(s) to which he/she is pleading guilty;

4 (2) that defendant understands his/her right to trial by jury, to persist in his/her
5 plea of not guilty, to the assistance of counsel at trial, to confront and cross-examine
6 adverse witnesses, and his/her right against compelled self-incrimination;

7 (3) that defendant understands what the maximum possible sentence is, including
8 the effect of the supervised release term, and defendant understands that the sentencing
9 guidelines are advisory, not mandatory, and that the Court may sentence outside those
10 guidelines if defendant is convicted at trial;

11 (4) that the plea of guilty by the defendant has been knowingly and voluntarily
12 made and is not the result of force or threats or of promises apart from the plea agreement
13 between the parties;

14 (5) that defendant is competent to plead guilty;

15 (6) that defendant understands that his/her answers may later be used against
16 him/her in a prosecution for perjury or false statement;

17 (7) that defendant understands that by pleading guilty he/she waives the right to a
18 jury trial;

19 (8) that defendant understands the terms of any plea agreement provision waiving
20 the right to appeal or to collaterally attack the sentence, and has knowingly, intelligently
21 and voluntarily waived those rights;

22 (9) that the defendant is satisfied with counsel's representation; and

23 (10) that there is a factual basis for the defendant's plea; and further,

24 I RECOMMEND that the Court accept the defendant's plea of guilty.

25 IT IS ORDERED that any objection to the guilty plea proceedings and any request
26 for supplementation of those proceedings be made by the parties in writing and shall be
27 specific as to the objection or request made. All objections or requests for
28 supplementation shall be filed within fourteen (14) days of the date of service of a copy

1 of these findings unless extended by an Order of the assigned district judge.

2 IT IS FURTHER ORDERED that any letters, documents, or other matters
3 Defendant would like the sentencing judge to consider before sentencing (including the
4 English translation of any writings not in English) must be submitted in paper form with
5 the original to the probation office and copies to the sentencing judge and opposing
6 counsel no later than seven (7) business days prior to the sentencing date or they may be
7 deemed untimely by the sentencing judge and not considered.

8 IT IS FURTHER ORDERED that any motions for upward or downward
9 departures or any sentencing memoranda must be filed at least seven (7) business days
10 prior to the sentencing date. Responses are due three (3) business days prior to the
11 sentencing date. Any motion to continue sentencing must be filed promptly upon
12 discovery of the cause for continuance and must state the cause with specificity. Motions
13 to continue sentencing filed less than fourteen (14) days before sentencing are disfavored.

14 Dated this 15th day of January, 2016.

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18 Honorable James F. Metcalf
19 United States Magistrate Judge
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